

**PROFFERS
(OPTION A)
BROOKFIELD RIDGE ROAD, LLC**

RZ 2005-MV-001

July 30, 2006

Pursuant to Section 15.2-2303(A) Code of Virginia, 1950, as amended, the owners and Brookfield Ridge Road, LLC (hereinafter referred to as the "Applicant"), for themselves, their successors and assigns in RZ 2005-MV-001, filed on property identified as Fairfax County tax map reference 89-4 ((1)) 56, 57A and 69 (hereinafter referred to as the "Application Property") hereby proffers to the following, provided that the Board of Supervisors approves the rezoning of the Application Property to the PDH-2 District in conjunction with a Conceptual/Final Development Plan for residential development. If accepted, these proffers shall replace and supersede any previous proffers approved on the Application Property.

1. CONCEPTUAL/FINAL DEVELOPMENT PLAN ("CDP/FDP")

- a. Subject to the provisions of Section 16-401 and 16-402 of the Fairfax County Zoning Ordinance (hereinafter referred to as the "Zoning Ordinance"), development of the Application Property shall be in substantial conformance with option A of the CDP/FDP entitled "Renfro Property," containing eleven (11) sheets prepared by Land Design Consultants, dated January 26, 2005, as revised through July 5, 2006.
- b. Pursuant to Paragraph 4 of Section 16-403 of the Zoning Ordinance, minor modifications from the CDP/FDP may be permitted as determined by the Zoning Administrator. The Applicant reserves the right to make minor adjustments to the layout, internal lot lines, and lot sizes of the proposed subdivision at time of subdivision plan submission based on final building footprints, utility locations and final engineering design, provided that such do not decrease the amount and location of open space, tree save areas (including Parcel B), distances to peripheral lot lines, change the access points, or change existing utility easements on adjoining or adjacent property unless new easements are obtained and recorded prior to subdivision plan approval.
- c. Notwithstanding that the CDP/FDP is presented on eleven (11) sheets and said CDP/FDP is the subject of Proffer 1.a. above, it shall be understood that the CDP shall be limited to the points of access, location and amount of open space, limits of clearing and grading, the total number and general location of residential units and type of units. The Applicant has the option to request Final Development Plan Amendments ("FDPAs") for elements other than CDP elements from the Planning Commission for all of, or a portion of, the CDP/FDP in accordance with the provisions set forth in Section 16-402 of the Zoning Ordinance. The President of the Middle Valley Civic Association, the Chairman of the Mount Vernon Council of

Citizen Associations' Planning and Zoning Committee, and the Chairman of the South County Federation's Land Use Committee, as on file with the Mount Vernon District Supervisor's office, shall be notified by certified mail of the submission of an application for an FDPA and/or a proffered condition amendment, and/or the submission of modification/waiver requests and/or proffer interpretations. Said notification shall be provided within ten (10) days of submission and shall include the location where the application and/or materials are available for review. A copy of the said application and/or materials as filed shall be sent to the President of the Middle Valley Civic Association, as on file with the Mount Vernon District Supervisor's office.

2. TRANSPORTATION

- a. The Applicant shall construct a public street with curb and gutter within the residential community as shown on the CDP/FDP.
- b. The private driveway constructed to serve proposed Lots 13-17, as shown on the CDP/FDP, shall be constructed to pavement thickness standards set forth in subdivision street regulations published in the Public Facilities Manual (PFM) standards as approved by the Department of Public Works and Environmental Services (DPWES). Nothing contained in this proffer shall be construed to require the developed property to meet other geometrical standards (e.g. width of pavement, horizontal geometry) published by VDOT.
- c. The Applicant shall construct a five (5) foot wide sidewalk along both sides of the street within the residential development, as shown on the CDP/FDP.
- d. The Applicant reserves density credit as may be permitted by the provisions of Paragraph 4 of Section 2-308 of the Zoning Ordinance for all dedications as may be reasonably required by Fairfax County or VDOT, whether such dedications occur prior to or at time of subdivision record plat approval.
- e. That portion of the outlet road adjacent to properties identified as tax map 98-2 ((19)) 73A1, 74A, 75A, 76A, 77, 78, 79A, 80A, and 81, and recorded in Deed Book Y-8 at page 567 among the Fairfax County land records, that serves property identified as tax map 89-4 ((1)) 55, and located on the Application Property within Parcel B and west of the right of way of the proposed public street as shown on the CDP/FDP, shall be vacated and abandoned prior to subdivision plat approval for the Application Property.
- f. The Applicant shall provide written notice to initial prospective contract purchasers of the possible future development of the property identified as tax map 89-4 ((1)) 55 with more than one house, and its access to the cul-de-sac as shown on the CDP/FDP. The homeowners' association documents shall also include said notification.

- g. The Applicant shall convey Outlot A as shown on the CDP/FDP, to the owner of the adjacent property identified as tax map 89-4 ((1)) 55 (Lot 55) so that the cul-de-sac may be used for access. If the owner of Lot 55 does not accept title to Outlot A, title to Outlot A shall be held by the homeowners' association established for the proposed development until such time as a conveyance is requested by the owner of Lot 55. The homeowners' association documents shall reflect the obligation to convey Outlot A to the owner of Lot 55 at no cost. No density or open space associated with Outlot A shall be applied to the density and open space calculations shown on the CDP/FDP.
- h. The Applicant shall construct a six (6) foot wide asphalt trail on the Application Property as shown on the CDP/FDP. Said trail shall connect to an existing trail located on properties identified as tax map 98-2 ((19)) 75A and 76A, which shall be resurfaced as part of construction. The Applicant shall diligently pursue acquisition of a trail easement, at a reasonable cost based upon the appraised value of the easement, across those properties identified as tax map 98-2 ((11)) (11) 4 and 5 to provide a complete connection from Ridge Creek Way to Roundabout Way. Should the Applicant acquire a trail easement, in a form reviewed and approved by the Fairfax County Attorney's Office and recorded among the Fairfax County land records, the Applicant shall construct a six (6) foot wide asphalt trail in accordance with Fairfax County standards, and request that the trail be accepted by Fairfax County into the trail system. The trail shall be located and constructed to maximize the preservation of the existing trees as coordinated with Urban Forest Management. If the Applicant is unable to acquire the necessary easement, at a reasonable cost as described herein, there shall be no further obligation to construct that portion of the trail not located on the Application Property and the Applicant shall escrow an amount, as determined by DPWES, equivalent to the cost of constructing that portion of the trail with DPWES at time of subdivision plat recordation. Evidence of attempts to acquire said easement shall be provided to DPWES at time of subdivision plan submission for the Application Property. The escrowed funds may be applied to the construction of other trail connections in the Mount Vernon area.
- i. The final location of the turnaround shown on the CDP/FDP in front of proposed Lot 14 shall be determined at time of subdivision plan submission in coordination with the Office of the Fire Marshal.
- j. At time of subdivision plat recordation, the Applicant shall grant a trail easement, in a form reviewed and approved by the County Attorney, on Parcel C south of the proposed public street in the location shown on the CDP/FDP to facilitate an off-site connection to Vogels Way. The final location of the trail for construction on the Application Property shall be determined in consultation with DPWES, and in a location that shall not require the approval of an amendment to the CDP/FDP and/or these proffers. If it is determined by DPWES that a safe trail connection cannot be constructed to PFM standards in this general location, the area shall be open space as shown on Option #2 on the CDP/FDP, and the Applicant shall escrow funds equivalent to the cost of construction as determined by DPWES. The escrowed funds

may be applied to the construction of other trail connections in the Mount Vernon area.

- k. If a safe trail location is determined as described in proffer 2.j., the Applicant shall attempt to obtain an off-site easement from the Fairfax County Park Authority and permission from other utilities to locate and construct an off-site trail on property identified as tax map 98-2 ((11)) W to connect the trail described in proffer 2.j. to Vogels Way. The Applicant shall attempt to obtain the necessary easement and permission with the submission of a written request by certified mail. The letter shall include a request to receive a response within thirty (30) days. If no response is received within forty-five (45) days, a second written request shall be submitted by certified mail. If no response is received within thirty (30) days of the date of the second certified mailing, this shall be deemed to be a negative response. If the Applicant is unable to acquire the necessary easement and permission at no cost, there shall be no further obligation under this proffer. Evidence of attempts to acquire said easement and permission shall be provided to DPWES at time of subdivision plan submission for the Application Property.

3. LANDSCAPING AND OPEN SPACE

- a. The Applicant shall conform to the limits of clearing and grading as shown on the CDP/FDP subject to the installation of utilities and/or trails as determined necessary by the Director of DPWES. If it is determined necessary to install utilities and/or trails within the limits of clearing and grading, as shown on the CDP/FDP, they shall be located in the least disruptive manner possible as determined by Urban Forest Management. A replanting plan shall be developed and implemented, subject to approval by Urban Forest Management, for any areas within the limits of clearing and grading that must be disturbed. The replanting plan shall be outside of the utility easements as approved by DPWES.
- b. The Applicant shall submit a tree preservation plan as part of the first and all subsequent subdivision plan submissions. The preservation plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect and reviewed and approved by Urban Forest Management.
- c. The tree preservation plan shall consist of a tree survey that includes the location, species, size, crown spread and condition rating percentage of trees that are ten (10) inches or greater in diameter, and within twenty (20) feet to either side of the limits of clearing and grading shown on the CDP/FDP for the entire site. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of clearing and grading shown on the CDP/FDP, and those additional areas in which trees identified in the tree survey can be preserved as a result of final engineering. The condition analysis ratings shall be prepared using methods outlined in the latest edition of the *Guide for Plant Appraisal* published by the International Society of Arboriculture. Specific tree preservation activities that

will maximize the survivability of trees to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.

- d. All trees shown to be preserved on the tree preservation plan shall be protected by a tree protection fence, and super silt fence as approved by Urban Forest Management. The tree protection fence shall be four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart, and shall include orange (or similar bright color) plastic fence for visibility. Tree protection fencing shall be erected at the limits of clearing and grading as shown on the demolition, Phase I and Phase II erosion and sedimentation control sheets.
- e. The Applicant shall retain the services of a certified arborist or landscape architect, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the pre-construction meeting. Before or during the pre-construction meeting, the Applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with an Urban Forest Management representative to determine where adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase the survivability of trees only at the edge of the limits of clearing and grading, and such adjustments shall be implemented, as long as said adjustments do not interfere with the improvements shown on the CDP/FDP. Trees that are identified specifically by Urban Forest Management, in writing, as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump is removed, this shall be done using a stump grinding machine in a manner causing as little disturbance as possible to the adjacent trees and associated understory vegetation and soil conditions.
- f. All tree protection fencing shall be installed prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fence types shall be performed under the supervision of a certified arborist, and accomplished in a manner that minimizes harm to the existing vegetation that is to be preserved. Three days prior to the commencement of any clearing, grading or demolition activities, but subsequent to the installation of the tree protection devices, Urban Forest Management and the District Supervisor shall be notified and given the opportunity to inspect the site to assure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by Urban Forest Management.
- g. The Applicant shall submit a detailed landscaping plan as part of the first and all subsequent plan submissions that is consistent with the location, quality and quantity of landscaping shown on the CDP/FDP and these proffers. The landscaping plan shall utilize a variety of tree species of various sizes planted throughout the site. The native species, measuring at least two to two and one-half inches (2" - 2½") in caliper, may

include, but are not limited to, white oak, red maple, red oak, American holly, American beech, willow oak, dogwood and others. Pursuant to the PFM, the Applicant shall receive additional tree cover credit if native and desirable trees comprise a minimum of 90% of all trees listed on site. The Applicant shall also receive additional tree cover credit for utilizing tree species and planting locations that are effective for energy conservation as determined by DPWES.

- h. In order to protect co-owned trees from construction damage, the Applicant shall remove any dead, dying, or hazardous, on-site, and co-owned trees adjacent to the limits of clearing and grading that are damaged as a result of construction activities permitted on the approved plan and replace the lost tree canopy in accordance with the guidelines of the PFM. Off-site mitigation associated with co-owned trees shall only be conducted with permission of the appropriate off-site owner, which shall be diligently pursued and acknowledgment of receipt of notice to any co-owner shall be provided to DPWES. Prior to subdivision plat approval, a replacement value shall be assigned by Urban Forest Management to all healthy on-site or co-owned trees measuring ten (10) inches or larger in diameter, which are located within twenty (20) feet of the limits of clearing and grading as shown on the CDP/FDP. Trees recommended for removal on the tree preservation plan shall not be assigned a value. At the time of subdivision plan approval, the Applicant shall post cash or a letter of credit payable to the County of Fairfax to ensure removal and replacement of any on-site or co-owned trees that are left dead, dying, or hazardous as a result of damage by normal construction activities permitted on the approved plan. The calculated replacement values shall be reviewed and approved by Urban Forest Management prior to posting the cash bond or letter of credit. The terms of the letter of credit shall be subject to approval by the County Attorney. The replacement value of each designated tree shall be determined by a certified arborist according to the methods contained in the latest edition of the Valuation of Landscape Trees, Shrubs and Other Plants published by the International Society of Arboriculture, subject to review and approval by Urban Forest Management. The replacement value shall take into consideration the age, size and condition of these trees and shall be determined by the so-called "Trunk Value Method" contained in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture, subject to review and approval of UFM. The total amount of the cash bond, escrow or letter of credit shall not exceed the replacement value as determined above, in addition to any conservation escrow that is required at the time of subdivision plan approval. From time to time, funds, or a portion thereof, may be drawn on the cash bond or letter of credit and expended for the purposes of this proffer. Any funds remaining in the letter of credit or cash bond will be released one year from the date of the issuance of the final residential use permit for the Application Property, or sooner, if approved by Urban Forest Management.
- i. Concurrent with development of the Application Property, the Applicant shall remove the existing turnaround located east of the site entrance as shown on the CDP/FDP. Subject to any restrictions of record, the area shall be landscaped with a minimum of three (3) native tree species measuring a minimum of two and one-half inches (2½")

in caliper at time of planting, such as white oak, red maple, red oak, American holly, American beech, Willow oak and dogwood. The selection of species and number of plantings shall be coordinated with Urban Forest Management.

- j. The retaining walls shown on the CDP/FDP to be located along the southern property line of the Application Property shall not exceed a height of four (4) feet from surface ground elevation and shall be maintained by the homeowners' association established for the proposed development. The landscaping to be provided in this area shall be installed between the retaining wall and the property line so as to buffer the adjacent residential community. Landscaping in this area shall consist of evergreens (Leland cypress or species with similar growth habits and shape) a minimum of six (6) to eight (8) feet in height at time of planting.
- k. Subsequent to the vacation of the outlet road as described in Proffer 2.e. and installation of the trail as described in Proffer 2.h., Parcel B, as shown on the CDP/FDP, shall remain as tree save area and open space. Said parcel shall not be utilized for construction nor improved with recreation or other facilities, and shall be placed within a conservation easement. Said conservation easement shall be in a form as reviewed and approved by the Fairfax County Attorney's office, and recorded among the Fairfax County land records.
- l. The Applicant shall retain a certified arborist or landscape architect to monitor installation of the storm sewer pipe as described in Proffer 5.p., specifically, with respect to an existing gum tree located on property identified as 98-1 ((9)) 17 (Lot 17). Should the certified arborist or landscape architect determine that the tree has been damaged so that it may not survive, the Applicant shall replace the tree with either a gum tree that is three (3) inches in caliper or two (2) flowering trees that are two and one-half (2½) inches in caliper. The location of the planting(s) shall be selected by the owner of Lot 17 outside of the easement area. The monitoring, inspection and planting(s) described herein are subject to receipt of permission from the owner of Lot 17.
- m. Subject to the approval of Urban Forest Management, the Applicant shall incorporate into the landscape plan, where feasible, the following plant materials between proposed lots 5 through 10 and the adjacent Middle Valley Subdivision: Emerald Arborvitae (white cedar), Irish Juniper, Foster's Holly, Little Red Holly, Oakleaf Holly, Nellie R. Stevens Holly, Lombardy Poplar and Lilac. The final selection and number of plant materials incorporated in the landscape plan shall meet the requirements of the Zoning Ordinance and the PFM.
- n. Subject to receipt of permission from the owners of property identified as 98-2 ((11)) (11) 2, 3; 98-2 ((11)) (5) 3, 4; 98-2 ((11)) 19; 89-3 ((13)) 23, 24, the Applicant shall install landscaping within ten (10) feet of the shared property line with the Application Property, incorporating the species identified in proffer 3.m. on these individual lots. Said location and species shall be coordinated with the property owner. No more than five (5) trees shall be located on any one lot. Trees shall be

installed, weather permitting, prior to the issuance of the first building permit for the Application Property, and shall include standard nursery warranty for survivability.

4. PARKS AND RECREATION

- a. Pursuant to Paragraph 2 of Section 6-110 and Paragraph 2 of Section 16-404 of the Zoning Ordinance regarding developed recreational facilities, the Applicant shall expend, at a minimum, the sum of Nine Hundred and Fifty-five Dollars (\$955.00) per approved lot on recreation facilities, including escrows. Any funds not expended on site shall be contributed to the Fairfax County Park Authority for the provision of recreational facilities located in proximity to the Application Property at the time of subdivision plan approval.
- b. In addition to the recreation and/or contribution provided in proffer 4.a., at the time of subdivision plan approval, the Applicant shall contribute Eight Hundred and Fifty Dollars (\$850.00) per approved lot to the Fairfax County Park Authority for recreational facilities located in the vicinity of the Application Property. The Applicant shall receive credit for the acquisition and construction costs associated with the off-site portion of the trails as described in proffers 2.h. and 2.k.

5. STORMWATER MANAGEMENT

- a. In accordance with a determination of DPWES regarding drainage divides, the Applicant shall provide one stormwater management (SWM) extended dry pond designed to provide Best Management Practices (BMPs) on the Application Property in the general location shown on the CDP/FDP, and in accordance with the requirements of the PFM and the Chesapeake Bay Preservation Ordinance, unless modified by DPWES. At the Applicant's option, additional innovative SWM techniques within the extended dry pond may be installed, subject to the approval of DPWES. As shown on the CDP/FDP, the Applicant shall install a storm drainage pipe to collect runoff from the rear of Lots 1 through 3 to direct stormwater to the proposed extended dry pond located on Parcel D. Any area not utilized as a SWM pond pursuant to any granted modifications shall remain as open space owned by the homeowners' association established for the community. Any increases to the peripheral size of the SWM pond shown on the CDP/FDP may necessitate the need for approval of a proffered condition amendment.
- b. In accordance with State and local provisions, the Applicant shall not discharge either concentrated or non-concentrated surface drainage onto lower lying property (i.e., Middle Valley Subdivision) at a rate or volume greater than the pre-development rate or volume.
- c. In addition to the requirements of the PFM, the Applicant shall install a combination of swales and/or earthen berms to convey the overland drainage from the rear of proposed Lots 5 through 10 to the internal storm sewer system generally within the limits of the proposed storm sewer easement at the rear of Lots 6, 7, 8 and 9, as

depicted on the CDP/FDP. Any swales and/or earthen berms shall be located either within a storm drainage easement to the benefit of the homeowners' association established for the proposed development, or, if required by DPWES, located within a storm drainage easement to the benefit of Fairfax County. In either circumstance, a covenant shall be recorded among the Fairfax County land records on those lots improved with a swale and/or earthen berm. Said covenant, in a form as reviewed and approved by the Fairfax County attorney, shall preclude removal and/or regrading of the swale and/or earthen berm. The swales and/or earthen berms shall be inspected on an annual basis by an engineer retained by the homeowners' association. Inspection records shall be retained by the homeowners' association management company and shall be available to DPWES upon demand during regular business hours. These restrictions and obligations shall be disclosed in the homeowners' association documents.

- d. In addition to the requirements of the PFM, the Applicant shall connect a series of roof drains/downspouts/underground pipes and tie these facilities into the proposed storm sewer system for proposed Lots 5 through 11 to minimize any drainage from the rear of the proposed roofs entering onto the downstream properties overland. This requirement shall be included in a covenant recorded among the Fairfax County land records on these lots, and shall be disclosed in the homeowners' association documents prepared in conjunction with the development of the Application Property.
- e. If sump pumps are necessary on proposed Lots 1-11, sump pumps installed for Lots 4-11 on the Application Property shall be connected to the proposed storm sewer system. Sump pumps for Lots 1-3 shall be discharged overland and away from the Middle Valley community. This requirement shall be included in a covenant recorded among the Fairfax County land records on these lots. This commitment shall be included in the homeowners' association documents prepared in conjunction with the development of the Application Property.
- f. In order to restore a natural appearance to the proposed stormwater management pond, a landscape plan shall be submitted as part of the first submission of the subdivision plan. The plan shall show the restrictive planting easement for the pond, and landscaping in all areas outside of that restrictive planting easement, to the maximum extent feasible in accordance with the planting policies of Fairfax County.
- g. At time of subdivision plan submission, the Applicant shall submit a dam breach analysis as required by Section 6-1603.4 of the PFM for all proposed SWM ponds as approved by DPWES. The President of the Middle Valley Civic Association, as on file with the Mount Vernon District Supervisor's office, shall be notified by certified mail of the submission of the dam breach analysis to DPWES. Said notification shall be provided within ten (10) days of the analysis submission and shall include the location where the analysis is available for review. A copy of the said plans shall be sent to the President of the Middle Valley Civic Association, as on file with the Mount Vernon District Supervisor's office.

- h. Subject to the approval of DPWES, the Applicant shall install fencing, landscaping, or a combination thereof, around the perimeter of the SWM pond as shown on the CDP/FDP to deter pedestrian access. Any fencing around the perimeter of the SWM pond shall be located outside of the Fairfax County maintenance easement, and shall not be constructed of chain link materials.
- i. The wall(s) shown in proximity to the pond located on Parcel D and shown on the CDP/FDP shall not exceed a height of six (6) feet as measured from surface ground elevation to top of wall. Railings shall be installed on top of the wall(s) in accordance with Fairfax County requirements.
- j. As approved by DPWES, the Applicant shall improve the existing drainage swales/channels located on properties identified as tax map 98-1 ((9)) Z and 18 in accordance with the detail shown on the CDP/FDP. Improvements shall be in compliance with PFM standards and may include weirs, stone, rip-rap and/or similar materials relative to outfall improvements, subject to DPWES approval. Access to construct these improvements shall be provided within existing recorded easements located on those properties identified as tax map 98-1 ((9)) 17 and 18 or as otherwise negotiated with those property owners. The Applicant shall coordinate with the property owners regarding the time and duration of construction and restoration of any disturbed areas, including, but not limited to, the replacement of shrubs and fencing, and reseeding of any disturbed lawn areas, and shall implement those measures agreed to, subject to the approval of DPWES.

Prior to any land disturbing activities relative to the existing drainage swale/channel located on properties identified as tax map 98-1 ((9)) Z and 18, the Applicant shall provide for a qualified independent third party to complete a single pre-inspection survey of the existing homes and yards on properties identified as tax map 98-1 ((9)) 17 and 18, to include photographs of the affected area, and obtain a third party engineer to monitor the construction activities. The Applicant shall provide for a qualified independent third party to conduct a post inspection survey of the homes and yards within three (3) months of completion of base paving and approximately three (3) years after completion of base paving. Any damage that was directly caused by the construction activities or equipment as determined by the third party shall be repaired at the cost of the Applicant. Additionally, the Applicant shall fund up to \$5,000.00 for a fourth party engineer that is selected by the Middle Valley Civic Association to monitor these activities. All engineers referenced herein shall be a registered professional engineer licensed by the Commonwealth of Virginia and accredited with the Washington Area Council of Engineering Laboratories, Inc., and approved for performing special inspections in Fairfax County, Virginia. Pre- and post-inspections as described herein are subject to the receipt of permission from the property owners. If the property owners do not respond to a written request delivered by certified mail within thirty (30) days of the signed receipt or refusal of the letter,

the inspection obligations described in this proffer shall be null and void as to the specific property owners that do not respond or grant permission.

- k. If required by DPWES, the Applicant shall improve the outfall located on property identified as tax map 98-1 ((9)) Z, adjacent to property identified as tax map 89-3 ((13)) 14, which is owned by the Fairfax County Park Authority, subject to the receipt and recordation of any easement. Improvements shall be consistent with the requirements of the PFM. Construction of improvements shall be subject to receipt of any easement from the Fairfax County Park Authority. The Applicant shall restore any disturbed areas, including the replacement of shrubs, and reseeded any disturbed lawn areas. Access to construct these improvements shall be provided from Vogels Way.
- l. Applicant shall remove debris from existing storm sewer inlets located within easements on properties identified as tax map 89-3 ((13)) 27 (Lot 27) and 89-3 ((14)) 40 (Lot 40) to restore their function consistent with that shown on the approved subdivision plan for the Middle Valley Subdivision. Applicant shall reconstruct storm sewer inlets and end walls, as approved by DPWES, on Lot 27 and Lot 40 only to the extent possible within existing recorded easements, and consistent with that shown on the approved subdivision plan for the Middle Valley Subdivision. The Applicant shall coordinate with the owners of Lot 27 and Lot 40 regarding the time and duration of construction and the reseeded of any disturbed lawn areas, and shall implement those measures agreed to, subject to approval of DPWES. Restoration shall not include the replacement or installation of landscaping within easement areas.
- m. Subject to the receipt of any necessary letter of permission or temporary grading and construction easement from the owners of properties identified as tax map 89-3 ((13)) 27 (Lot 27) and/or 89-3 ((14)) 40 (Lot 40), at no cost, the Applicant shall grade Lot 27 and/or Lot 40 to improve overland relief, subject to the approval of DPWES. Applicant shall submit a written request by certified mail to the owners of Lot 27 and Lot 40 asking for permission to enter and grade the property. The letter shall include a requirement to receive a written affirmative or negative response within thirty (30) days. If no response is received within forty-five (45) days of the signed receipt or refusal of the letter, this shall be deemed to be a negative response. Evidence shall be provided to DPWES at time of subdivision plan review of Applicant's attempts to receive permission from the owners of Lot 27 and Lot 40.
- n. In coordination with DPWES at time of subdivision plan approval, the Applicant shall design the proposed extended dry SWM facility located on Parcel D on the CDP/FDP, beyond the minimum requirements of the PFM to control the one-year, twenty-four hour storm, as approved by DPWES in order to reduce storm drainage velocity which may contribute to downstream erosion.
- o. Subject to the receipt of the necessary permission from the property owner, which shall be diligently pursued as demonstrated to DPWES, the Applicant shall construct a

four (4) foot (height), by seven (7) foot (width) by seven (7) foot (length) areaway at the rear of the existing dwelling located on property identified among the Fairfax County tax assessment records as 98-2 ((11)) 21 (Lot 21). The areaway shall be located and constructed in accordance with the applicable code requirements. A sump pump with battery power back up shall be installed and discharged into the yard. The backyard of Lot 21 shall be backfilled and graded to divert surface water away from the existing house, and the existing yard inlets 14 and 14A on Lot 21 shall be raised, as approved by DPWES. In addition, and if approved by DPWES, inlet 14A shall be converted to a manhole with a bolted manhole cover. Where new fill is placed against the existing house, waterproofing shall be applied to the existing house. The graded area of the yard will be restored with sod. The existing deck shall be removed only as necessary for grading on the property and restored on the property; and the two stairways for the deck shall be replaced at the cost of the Applicant. The existing heat pump/HVAC compressor shall be removed for grading then restored on the property. The heat pump/HVAC compressor shall be deemed to be in pre-existing working condition by the HVAC contractor upon relocation or, if it is not in pre-existing working condition, the heat pump/HVAC compressor shall be replaced by the Applicant. Improvements shall also include replacement of landscaping with one (1) flowering Cherry Tree that is 2.5" in caliper, and five (5) Steeds Hollies that are 5' in height or greater, but shall not include a cash payment directly to the property owner. The Applicant shall submit a written proposal by certified mail to the owner of Lot 21, including detailed engineering drawings, at time of subdivision plan submission for the Application Property. The letter shall include a requirement for a written affirmative or negative response within thirty (30) days. A written response indicating a willingness to enter into a negotiation process shall be deemed an affirmative response. The Applicant and the owner of Lot 21 shall complete negotiation of actual improvements within ninety (90) days of the receipt of an affirmative response, unless additional time is mutually agreed to by the parties. Construction of the areaway shall be completed prior to the commencement of any land disturbing activities on the Application Property and the storm sewer installation and grading described in this proffer shall be completed immediately following Phase 1 Erosion and Sedimentation Control installation for the site. If an agreement cannot be reached, as evidenced to DPWES, the Applicant shall escrow the sum of Twenty-Five Thousand Dollars (\$25,000.00) with Fairfax County for future construction by others. The escrow shall be released only upon the submission of a written request by the owner of Lot 21 and shall be used solely for the construction of drainage improvements and replacement of any trees lost due to grading on Lot 21. If a negative response is received to the certified mailing, or if no response is received within forty-five (45) days of the certified mailing, the Applicant shall submit the escrow described herein and evidence of mailings to DPWES.

- p. Subject to the approval of DPWES, the Applicant shall replace the existing storm sewer pipe between off-site structures 16 and 17 as identified on the CDP/FDP with a minimum thirty (30) inch concrete pipe utilizing the existing easement. The Applicant shall coordinate with the individual property owners to relocate the

easement if desired to preserve existing vegetation, as determined appropriate by Urban Forest Management, subject to the approval of DPWES. The Applicant shall submit a written request by certified mail to the owner of each lot encumbered by the storm drainage easement requesting input on relocation of the easement at no cost. The letter shall include a requirement to receive a response within thirty (30) days. If no response is received within forty-five (45) days of the date of the certified mailing's signed receipt or refusal, this shall be deemed to be a negative response. There must be a general consensus among the property owners to allow for the logical realignment of the easement to meet the requirements of DPWES. If there is no general consensus between property owners, the Applicant shall coordinate with individual lot owners on the relocation of the easement on each respective lot, provided that the proposed realignment connects to an existing easement. The Applicant shall prepare necessary plats and documents for recordation among the Fairfax County land records, which shall include the concurrent vacation of the existing easement, subject to the approval of DPWES. Exclusive of engineering, legal and recordation fees, said easement relocation shall be at no cost to the Applicant.

Upon either replacement of the storm sewer pipe, or pipe installation within a new easement, the Applicant shall provide for a qualified independent third party to complete a single pre-inspection survey of the existing homes and yards on Lots 98-1 ((9)) 17 and 18, to include photographs of the affected area, and obtain a third party engineer to monitor the construction activities. Once installation of the pipe and the ground re-vegetation is completed in accordance with Fairfax County requirements, the Applicant shall provide for a qualified independent third party to conduct a post inspection survey of the homes and yards within three (3) months after completion of base paving and a second inspection shall be completed approximately three (3) years after completion of base paving. The Applicant shall also replace any existing fencing that is required to be removed as a part of pipe installation, subject to DPWES approval. Said replacement fence shall be the same materials and style as the existing fence. Said fence shall include a gate for maintenance of the pipe as required by DPWES. Any damage that was directly caused by the construction activities or equipment as determined by the third party shall be repaired at the cost of the Applicant. As described in Proffer 5.j., the Applicant shall fund up to a total of \$5,000.00 for a fourth party engineer that is selected by the Middle Valley Civic Association to monitor these activities. All engineers referenced herein shall be a registered professional engineer licensed by the Commonwealth of Virginia and accredited with the Washington Area Council of Engineering Laboratories Inc., and approved for performing special inspections in Fairfax County, Virginia. Pre- and post-inspections as described herein are subject to the receipt of permission from the property owners. If the property owners do not respond to a written request delivered by certified mail within thirty (30) days of the signed receipt or refusal of the letter, the inspection obligations described in this proffer shall be null and void as to the specific property owners that do not respond or grant permission. The \$5,000.00 described herein is intended to cover the cost associated with the inspections described in Proffer 5.j. and above.

In conjunction with the construction described herein, the Applicant shall regrade the yard of that property identified as Lot 98-1 ((9)) 17 (Lot 17), subject to the approval of DPWES, to divert potential run-off as calculated in the dam breach analysis away from the existing home in accordance with sound engineering practices. Said grading shall be performed subject to receipt of any necessary letter of permission or temporary grading and construction easement from the owners of Lot 17, at no cost. The Applicant shall submit a written request by certified mail to the owners of Lot 17 asking for permission to enter and grade the property. The letter shall include a requirement to receive a written affirmation or negative response within thirty (30) days. If no response is received within forty-five (45) days of the signed receipt or refusal of the letter, this shall be deemed to be a negative response. Evidence shall be provided to DPWES of Applicant's attempts to receive permission from the owners of Lot 17. Disturbed lawn areas shall be restored with sod.

- q. Prior to any clearing or grading of the Application Property, and subject to receipt of permission from the owners of the property identified as 98-1 ((9)) 18 (Lot 18), the Applicant shall install a sump pump with battery power back up in the home on Lot 18, which will be installed to drain by gravity to the home's exterior. Within twelve (12) months of issuance of the site development permit for the Application Property, the Applicant shall present design options to the property owners for the installation of a French drain around the house on Lot 18. Subject to receipt of any necessary letter of permission or temporary construction and grading easement from the owners of Lot 18, the Applicant shall install a French drain at the footing elevation as described herein on Lot 18, which shall be installed to drain by gravity to the home's exterior. If a French drain is installed, the Applicant shall coordinate with the contractor to allow waterproofing of the foundation walls of the house by the owners of Lot 18 at the owners' sole expense. In conjunction with each of the improvements described herein, the Applicant shall submit a written request by certified mail to the owners of Lot 18 asking for permission to enter the property for installation of said improvement. The letter shall include a requirement to receive a written affirmation or negative response within thirty (30) days. If no response is received within forty-five (45) days of the signed receipt or refusal of the letter, this shall be deemed to be a negative response. Evidence shall be provided to DPWES of Applicant's attempts to receive permission from the owners of Lot 18. The owners of Lot 18 may select either or both of these improvements within their sole discretion.
- r. The Applicant shall create a swale on the property identified as tax map 98-2 ((11))W, subject to the approval of DPWES, which shall not be improved with stone and/or rip-rap. The Applicant shall coordinate with DPWES to determine if the swale should be located within a Fairfax County storm drainage easement, and record said easement, as necessary. If a storm drainage easement is not required, the Applicant shall request permission from the Fairfax County Park Authority for the homeowners' association established for the development to cut the grass and maintain the swale.

- s. Prior to release of the grading site restoration bond posted with Fairfax County, the Applicant shall contact the President of the Middle Valley civic association, as on file with the Mount Vernon District Supervisor's office, to review the grading along the common property line between the Application Property and the Middle Valley Subdivision with a representative of DPWES to ensure compliance with the grading plan.

6. CONSTRUCTION SEQUENCE/EROSION AND SEDIMENTATION CONTROL

The Applicant shall phase construction of improvements on the Application Property in the following order:

- a. Construction of a triple-tiered super silt fence adjacent to the Middle Valley Subdivision, specifically along the southern boundary of the Application Property (at the rear of proposed Parcel C, and lots 5-9) and along the limits of that property identified as tax map 98-2 ((11)) W (Parcel W). The distance between the fences shall be generally four (4) feet, except as determined by DPWES where necessary to permit utility installation.
- b. Construction of a permanent storm sewer outfall within Parcel W to the proposed public street. The facility shall be constructed and stabilized to act as a temporary sediment basin. Clearing and grading shall be the minimum necessary for construction.
- c. Upon completion of the improvements identified in (a) and (b) above, a diversion dike shall be constructed and stabilized, which shall be generally located along the northern portion of the proposed public street, and a temporary sediment basin shall be generally located along the southern portion of the proposed public street generally between proposed Lots 13 and 18. This shall allow the construction of the proposed public street, associated subsurface utilities, and the grading for proposed Lots 7-11, and replacement of the existing storm sewer pipe as described in proffer 5.p.
- d. Once grade has been established for the areas identified above, and stabilization has occurred, the remainder of the Application Property, specifically, proposed Lots 5-9, may be cleared and graded subject to the following:
 - i. The contractor and Fairfax County inspector verify that the triple-tiered super silt fence along the southern property boundary is in good condition and functioning properly. In the event that it requires repair, all repairs shall be completed prior to any grading in this area.
 - ii. The retaining walls, if required based upon final engineering, shall be constructed and backfilled appropriately, and the clearing and grading in these areas shall be minimized to allow the construction of the retaining walls and adjacent storm sewer only. The retaining wall located behind

proposed Lot 6 shall not exceed four (4) feet in height from surface ground elevation. Upon completion of the retaining wall or concurrent with its installation, the Applicant shall commence installation of the storm sewer located at the rear of proposed Lots 5 and 6 and the construction of the berm. The residue of the lots shall be cleared and the final grade established.

7. HERITAGE RESOURCES

The Applicant shall retain a professional archaeologist to monitor the initial clearing and removal of topsoil from the Application Property. The archaeologist shall ensure that the Virginia Antiquities Act concerning the treatment of human burials is followed, adequate information is gathered and recorded if a potential domestic site associated with the cemetery is encountered, and that all artifact data which may be uncovered during initial site clearing is recovered. If potentially significant archaeological resources are discovered, the Applicant shall conduct Phase II testing, and, if necessary, Phase III data recovery, and forward these studies to the cultural resources protection section of the Fairfax County Park Authority for review.

8. AFFORDABLE HOUSING

At the time of first building permit approval, a contribution shall be made to the Fairfax County Housing Trust Fund for one-half percent (0.5%) of the sales price of each new single-family dwelling actually constructed on the Application Property to assist Fairfax County's low and moderate income housing goals.

9. SCHOOLS

Applicant shall contribute the sum of Thirty-seven Thousand Five Hundred Dollars (\$37,500.00) to the Fairfax County Board of Supervisors for capital improvements to West Springfield High School, which is located in the vicinity of the Application Property. Said contribution shall be payable prior to subdivision plat approval for the Application Property.

10. CEMETERY

- a. The Applicant, by covenants and restrictions within the homeowners' association documents, shall provide the following:
 - i. A fenced memorial plot around the located grave sites;
 - ii. A memorial marker identifying the burial area; and
 - iii. Perpetual maintenance of the cemetery area.
 - iv. A public access easement to the cemetery.

In addition, landscaping, that is consistent with the location, quality and quantity of landscaping shown on the CDP/FDP, shall be installed by the Applicant around the perimeter of the cemetery. Potential purchasers shall be notified of the existence of the cemetery and maintenance obligations prior to entering into a purchase contract. This information shall also be disclosed in the homeowners' association documents prepared in conjunction with development of the Application Property.

- b. Prior to commencement of construction on the Application Property, Applicant shall install a temporary fence to protect the cemetery. Protection fence shall be four (4) feet high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart, and shall include orange (or similar bright color) plastic fence for visibility.

11. SITE MANAGEMENT

- a. The President of the Middle Valley Civic Association, as on file with the Mount Vernon District Supervisor's office, shall be notified by certified mail of the submission of a subdivision plan. Said notification shall be provided within ten (10) days of subdivision plan submission and shall include the location where the plan is available for review. A copy of the said plans shall be sent to the President of the Middle Valley Civic Association, as on file with the Mount Vernon District Supervisor's office.
- b. Construction activity shall be limited to the hours between 7:00 a.m. and 7:00 p.m., Monday through Friday; the hours between 8:00 a.m. and 7:00 p.m. on Saturday; and on Sunday, for interior work only, from 9:00 a.m. to 6:00 p.m. This proffer applies to the original construction only and not to future additions and renovations by homeowners.
- c. Following the completion of clearing and grading activities, all construction vehicles shall be parked within the Application Property. The area within the Application Property to be dedicated for public street purposes pursuant to these proffers may be used for such parking and for the construction entrance. For on-site construction, there shall be no construction vehicle parking on any off-site street.
- d. The Applicant shall inspect Ridge Creek Way and Vogels Way that are adjacent to the Application Property on a daily basis, as required by DPWES and VDOT, and shall remove all mud, rocks, nails and other construction debris created by the Applicant and shall wash those roads as required by VDOT and DPWES to remove dirt and debris.
- e. The Applicant shall install a construction vehicle wash rack at the construction access to the Application Property to clean construction vehicles of dirt and debris.
- f. The Applicant shall provide the name and telephone number of the construction site superintendent to the presidents of the Middle Valley Civic Association and

Springfield Glen Homeowners' Association, as on file with the Mount Vernon District Supervisor's office, and the Mount Vernon District Supervisor for matters of concern which may arise during construction.

12. DESIGN

- a. The Applicant shall design the residential dwellings on the Application Property in general conformance with the architectural elevations as shown on Sheet 5 of the CDP/FDP. Final design shall be selected by the Applicant upon the submission of architectural drawings for building permits. Front façade materials may include brick, cementitious or wood siding (not vinyl or aluminum) or stone. A minimum two-car garage shall be provided for each residential dwelling. Garages may be front or side load.
- b. A minimum eighteen (18) foot long driveway, measured from the garage door to the nearest sidewalk base, shall be provided for each unit.
- c. There shall be a minimum side yard setback for each dwelling unit of seven (7) feet. Chimneys, stoops, bay windows, and similar features may encroach within the side yard setback, provided that no encroachments (other than fencing) shall be permitted within five (5) feet of any side yard lot line. Said restriction shall be included in the homeowners' association documents prepared in conjunction with the proposed development.
- d. There shall be a minimum rear yard setback of twenty-five (25) feet for all proposed lots. Features such as decks and patios shall be permitted in any rear yard, but no closer than five (5) feet to the rear yard lot line. Said restriction shall be included in the homeowners' association documents prepared in conjunction with the proposed development.
- e. All new homes constructed on the Application Property shall meet the thermal standards of the Council of American Building Officials ("CABO") Model Energy Program for energy efficient homes or its equivalent for electric or gas energy systems, as determined by DPWES.
- f. A covenant shall be recorded which provides a garage shall only be used for a purpose that will not interfere with the intended purpose of the garages, e.g., parking of vehicles. This covenant shall be recorded among the land records of Fairfax County in a form approved by the County Attorney prior to the sale of any lots and shall run to the benefit of the homeowners' association in Fairfax County. Initial purchasers shall be advised of the use restriction prior to entering into contract of sale. Said use restriction shall be included in the homeowners' association documents prepared in conjunction with the proposed development.
- g. All lighting shall comply with Zoning Ordinance Article 14, Part 900, Outdoor Lighting Standards.

13. HOMEOWNERS' ASSOCIATION

The Applicant shall establish a homeowners' association for the proposed development, to own, manage, and maintain the open space areas, including the tree save areas, cemetery, retaining walls, and all other community owned land and improvements. A specific budget line item shall be established for the maintenance of the retaining wall located on proposed Lot 6, and shown on the CDP/FDP. Restrictions placed on the use of the open space/buffer areas, minimum setbacks, and the maintenance responsibilities of the homeowners' association, shall be disclosed to all prospective homeowners in a disclosure memorandum prior to entering into a contract of sale and included in the homeowners' association documents. The homeowners' association documents shall allow for the future inclusion of that property identified as tax map 89-4 ((1)) 55 and disclose that this property may redevelop with more than one house.

14. SIGNAGE

- a. No temporary signs (including "popsicle" style, paper or cardboard signs), which are prohibited by Article 12 of the Zoning Ordinance, and no signs, which are prohibited by Chapter 7 of Title 33.1, or Chapter 8 of Title 46.2 of the Code of Virginia, shall be placed on or off-site to assist the initial sale of homes on the Application Property. Furthermore, the Applicant shall direct its agents and employees involved in the marketing and sale of the residential units on the Application Property to adhere to this proffer.
- b. All entry features installed on the Application Property shall be in accordance with the requirements of Article 12 of the Zoning Ordinance.

15. SWIMMING POOLS

All wastewater resulting from the cleaning and drainage of swimming pools installed by individual homeowners shall be discharged in accordance with all Fairfax County and State regulations, and pumped to the public street within the community and directed to the storm drainage system. This requirement shall be included in the homeowners' association documents prepared in conjunction with the development of the Application Property. Any damage resulting from the improper cleaning or drainage of a private swimming pool shall be the responsibility of the individual homeowner as enforceable by the homeowners' association.

16. BLASTING

If blasting is required, and before any blasting occurs on the Application Property, the Applicant or its successors will ensure that blasting is done per Fairfax County Fire Marshal requirements and all safety recommendations of the Fire Marshal, including, without limitation, the use of blasting mats, shall be implemented.

17. SUCCESSORS AND ASSIGNS

These proffers will bind and inure to the benefit of the Applicant and his/her successors and assigns.

18. COUNTERPARTS

These proffers may be executed in one or more counterparts, each of one when so executed and delivered shall be deemed an original document and all of which when taken together shall constitute one and the same instrument.

19. MISCELLANEOUS

Prior to final subdivision plan approval, the Applicant shall submit a copy of the subdivision plan to the Fairfax County Planning Commission for administrative review to ensure compliance with the CDP/FDP and these proffers, before commencement of any grading or construction on the Application Property. The President of the Middle Valley Civic Association, the Chairman of the Mount Vernon Council of Citizen Associations' Planning and Zoning Committee, and the Chairman of the South County Federation's Land Use Committee, as on file with the Mount Vernon District Supervisor's office, shall be notified by certified mail of the submission of the final subdivision plan to the Fairfax County Planning Commission for administrative review within ten (10) days of the date that the Applicant receives notices from DPWES that the subdivision plan has been forwarded to the Planning Commission. The Applicant shall send a copy of the subdivision plan forwarded to the Planning Commission to the President of the Middle Valley Civic Association, as on file with the Mount Vernon District Supervisor's office.

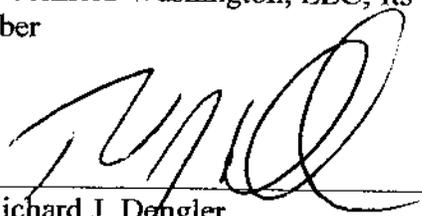
[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

RZ 2005-MV-001

APPLICANT/CONTRACT PURCHASER
Tax Map 89-4 ((1)) 56, 57A and 69

BROOKFIELD RIDGE ROAD, LLC

By Brookfield Washington, LLC, Its Sole Managing
Member

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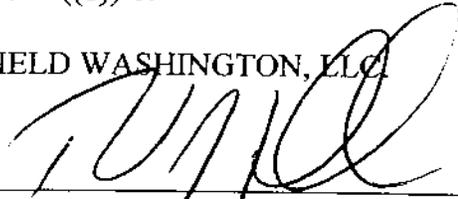
By: Richard J. Dengler
Its: Vice President & COO, Land Development

[SIGNATURES CONTINUED ON NEXT PAGE]

RZ 2005-MV-001

TITLE OWNER
Tax Map 89-4 ((1)) 69

BROOKFIELD WASHINGTON, LLC

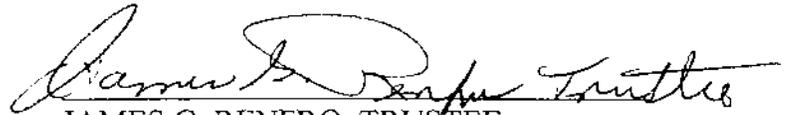
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By: Richard J. Dengler
Its: Vice President

[SIGNATURES CONTINUED ON NEXT PAGE]

RZ 2005-MV-001

TITLE OWNERS:
TAX MAP 89-4 ((1)) 56 and 57A


JAMES G. RENFRO, TRUSTEE


RACHEL E.C. RENFRO, TRUSTEE

[SIGNATURES END]